

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JAMES O'BRIEN LACKARD,

Petitioner,

v.

CIVIL ACTION NO. 5:15-cv-00517

JOE COAKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

On January 12, 2015, the Petitioner, acting *pro se*, filed his *Application for Writ of Habeas Corpus* (Document 1) brought pursuant to 28 U.S.C. § 2241. In his April 10, 2015 *Response to Order to Show Cause* (Document 7), the Respondent moves the Court to dismiss the Petitioner's § 2241 *Application*.


By *Standing Order* (Document 4) entered on January 22, 2015, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On February 1, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 12) wherein it is recommended that this Court deny the Petitioner's *Application for Writ of Habeas Corpus* (Document 1), grant the Respondent's motion to dismiss (Document 7), dismiss this matter with prejudice, and remove this action from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 21, 2017, and none were filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Application for Writ of Habeas Corpus* (Document 1) be **DENIED**, the Respondent's motion to dismiss (Document 7) be **GRANTED**, this matter be **DISMISSED with prejudice**, and this action be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: March 2, 2017


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA